IN THE HIGH COURT OF JUDICATURE AT BOBBY

APPELLATE SIDE

LETTERS PATENT APPEAL NO. 151 OF 2006

DR. V. CHANCRE .. APPELLANT

Vs.

STATE OF MAHARASHTRA & ORS. .. RESPONDENTS

Dr. V. Chandra appellant-in-person

Mrs. S. S. Bhende, AGP for respondents

CORAL:-SMT. RANJANA DESAI &

SMT. V.K. TAHILRAMANI, JJ.

DATED:- 20/9/2006

P.C.

. We have heard Dr. V. Chandra, the appellant in person. He has challenged the recovery certificate issued by the Deputy Registrar Co-operative Societies "R" Ward, Mumbai, on 24/4/06 by allowing the recovery application submitted by the Co-operative Housing Society by name Asha Nagar, Building No. 1 Co-operative Housing Society Ltd., Borivali (East) Mumbai. By the impugned order dated 15/6/06, the learned Single Judge dismissed the writ petition holding that the appellant is required to be relegated to the remedy of filing

the revision application under Section 154 of the Maharashtra Co-operative Societies Act, 1960 ("the Societies Act" for short) before the Divisional Joint Registrar.

2. The appellant contended that the recovery certificate is issued by court which has no jurisdiction. He submitted that the application of the society was not maintainable under Section 101 of the Societies Act, as there was excess recovery and, therefore, resort should have been taken to Section 91 of the Societies Act. He further submitted that there was utter violation of principles of natural justice. According to him he was not given opportunity of placing his case before the Deputy Registrar as well as the Divisional Joint Registrar. He submitted that the learned Single Judge erred in relegating him to the Divisional Joint Registrar. He submitted that even the Divisional Joint Registrar has no jurisdiction and therefore, the appellant cannot be compelled to submit to the jurisdiction of Divisional Joint Registrar. He further submitted that if he is made to file a revision application under Section 154 of the Societies Act, as per the provision, he will have to deposit fifty percent of the amount for

which the recovery certificate is issued. He submitted that when there is total violation of principles of natural justice, he cannot be expected to deposit the amount before the Divisional Joint Registrar. According to appellant this is a fit case where this court should entertain this appeal.

3. As per Section 154 of the Maharashtra Co-operative Societies Act, 1960, the appellant is required to deposit fifty percent of the total amount of recoverable dues. He cannot approach this Court directly to get over this provision. When an alternative remedy is available, the writ jurisdiction of this court cannot be invoked. The learned Single Judge was, therefore right in relegating the petitioner to the alternative remedy. Whether or not the petitioner was given an opportunity of hearing will be examined by the Divisional Joint Registrar. We keep all contentions of the appellant open.

4. We find no reason to entertain the appeal. Appeal is dismissed.

(SMT. RANJANA DESAI,J.)

(SMT. V. K. TAHILRAMANI, J.)